

What's New in the District of South Carolina?

(with Amendments through August 1, 2001)



Procedure	What's New	What's Gone
NEW CASES		
Filing Complaint/ Removal Papers	File responses to LR 26.01 inquiries with complaint / removal. <i>New 2001:</i> LR 26.01 clarifies when filed in removed cases	Old Local Rule 26 interrogatories (plaintiff and defendant) – eliminated
DISCOVERY		
Initiation of Discovery	Absent order to the contrary, no discovery before FRCP 26(f) Conference (<i>See also</i> Scheduling Orders below).	Old Local Rule opt-out eliminated – old FRCP requirement of “meeting” replaced with “conference”
FRCP 26(f) Report & Conference	Now required in this District. DSC also requires supplemental responses to LR 26.03. May modify procedures & limits by agreement. <i>New 2001:</i> LR16.00 addresses concern re pro se conferences. LR 26.01 - 26.03 address exemptions.	Local opt-out from 26(f) – eliminated
Scope of Discovery	FRCP now defines scope as “relevant to a claim or defense of any party.”	FRCP’s former scope definition: “relevant to the subject matter” – replaced
Discovery Stipulations and Extensions	Different consensual extension rules and limits apply (LR 29.01) which work with discovery motions deadline (LR 37.01) – put agreements in FRCP 26(f) report or confirm in writing (FRCP 29; LR 29.01). <i>New 2001:</i> LR 6.01 sets new requirements for motions to extend deadlines.	Resolves doubt as to whether consensual extension of response time extends motion deadline
Depositions and Interrogatories	FRCP limits on number of depositions and interrogatories now control (FRCP 26 & 30).	Old Local Rule opt-outs and procedures eliminated/modified (LR 30-33)
Automatic Initial Disclosures	Must now comply with FRCP 26(a)(1) automatic disclosures.	Old Local Rule opt-outs (and replacement by LR interrogatories) are eliminated – FRCP wording changed (narrowed)

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Automatic Expert Disclosures	FRCP 26(a)(2) now controls.	Old Local Rule opt-outs and LR expert disclosures are eliminated
Pretrial Disclosures	FRCP 26(a)(3) now controls – but pretrial brief is still required (LR 26.05). <i>New 2001: LR 26.01-.03 clarify that they do not apply to cases exempt under FRCP 26(a)(1)(E).</i>	Old Local Rules regarding pretrial disclosures are replaced or modified

SCHEDULING & DEADLINES

Scheduling Orders	Far more deadlines – covers all deadlines from FRCP 26(f) Conference to jury selection. Includes pretrial brief, etc. (LR 16.01-.03). <i>New 2001: LR 16.00 addresses scheduling in FRCP 26(a)(1)(E) exempt cases and other pro se cases and sets new requirements if stay of automatic deadlines or entry of the scheduling order is requested pending resolution of a motion to dismiss or remand.</i>	Old content of LR 16
ADR Requirement	Requirement to advise client and discuss with opposing counsel. Related deadlines set by scheduling order. (LR 16.02(C)(4)-(5) & 16.03)	n/a
Records Custodian Affidavits	Sets specific deadlines set to disclose intent to use and objections. (FRE 803(6), 902 (11) & (12); LR 16.02(C)(3) & 16.02(D)(3))	n/a
Protection Requests	<i>New 2001: new LR 6.02 establishes requirements for protection requests</i>	

MOTIONS

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Motions Generally	Deadlines for filing responsive memoranda now run from service – FRCP 6(a) calculation rules would therefore apply. (LR 7.06). <i>New 2001: LR 7.05 n. 3 draws attention to Local Civil Rules imposing specific content requirements for motions. Many of these are new rules.</i>	No longer need to run deadlines from <i>filing</i> of a motion/memoranda
Pre-Motion Consultation	Consultation wording now matches FRCP. Exempt matters reworded to include “other similar dispositive motions.” Must explain failed attempt. (LR 7.02)	“Would serve no useful purpose or could not be timely had” – eliminated
Discovery Related Motions	Explanation (and opposition memo) now required – attach discovery at issue (clarified) – attach proof of consensual extension. (LR 7.04, 7.06 & 37.01). <i>New 2001: new LR 16.00 sets requirements for motion to stay automatic FRCP deadlines and entry of scheduling order.</i>	Waiver of memo/explanation requirement for motion to compel – eliminated
Motion to File documents under seal	<i>New 2001: new LR 5.03 requires compliance with specific procedures to obtain prior judicial approval before filing documents under seal.</i>	
Extensions of Time	<i>New 2001: LR 6.01 adds specific requirements for motions to extend deadlines.</i>	
Protection Requests	<i>New 2001: new LR 6.02 sets requirements for seeking protection from appearance in court.</i>	
Protective Orders	<i>New 2001: new LR 26.08 allows protective agreements by consent but requires compliance with LR 5.03 before filing documents under seal.</i>	
Motion to Withdraw	<i>New 2001: LR 83.I.07 adds specific requirements including client consent or notification; information needed by court and required advice to corporate client.</i>	

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ATTORNEYS FEES/COSTS AND ADMISSION		
Attorneys Fees & Costs	FRCP 54 deadline applies. (FRCP 54; LR 54) – costs now also under same deadline.	Old Local Rule allowing 30 (instead of 14) days – eliminated – old rule had no deadline to file costs (neither does FRCP)
Attorney Admission	<i>New 2001: new standards give “trial experience” credit for judicial clerkships for admission to District Court Bar.</i>	

ADDRESSES & OTHER INFORMATION

District Court Web Site: www.scd.uscourts.gov

What's New on the Web Site? — The following have been updated to reflect the August 1, 2001 amendments.

- Amended Local Rules (ready to download)
- Implementing Order (June 25, 2001)
- Redlined Excerpts comparison between Local Civil Rules as effective December 1, 2000 and August 1, 2001
- Charts:
 - What's New (this chart)
 - Local Rule Amendments 2001. . . NOT AGAIN!
 - Filing Exchange and Service under the Amended Rules

Please send comments on the Local Civil Rules and suggested revisions or additions to: (Deadline October 1, 2001)

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